

[Submitting Counsel on Signature Page]

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT  
ADDICTION/PERSONAL INJURY  
PRODUCTS LIABILITY LITIGATION

MDL No. 3047

Case No. 4:22-md-03047-YGR

### This Document Relates to:

## ALL ACTIONS

**PLAINTIFFS' ADMINISTRATIVE  
MOTION PURSUANT TO CIVIL LOCAL  
RULE 7-11 FOR BELLWETHER USER  
DATA AND ACCOUNT INFORMATION**

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to Civil Local Rule 7-11, Plaintiffs respectfully move the Court for relief as a result of Defendants' refusal to agree to promptly provide Defendant Fact Sheet data and account preservation captures of Personal Injury Bellwether Plaintiffs social media accounts, as stipulated to and as the parties anticipate Judge Kuhl will order in the Judicial Council Coordination Proceedings ("JCCP").

## **ARGUMENT**

Plaintiffs respectfully request the Court to order Defendants to produce preservation captures of Plaintiffs' social media accounts ("snapshots") and Defendant Fact Sheet ("DFS") data for the selected Personal Injury Bellwether Plaintiffs within 14 days of the date of the attached proposed order or of their selection as a bellwether, whichever is later.

1       Judge Kuhl has been overseeing the negotiation and implementation of fact sheets,  
 2 discovery mechanisms commonly used in mass litigations to obtain basic case-specific  
 3 information. Following implementation of the Plaintiff Fact Sheet (“PFS”) in the JCCP, this  
 4 Court adopted the same PFS for use in the MDL. *See* ECF 596. DFSs, like PFSs, are a standard  
 5 component of plaintiff-specific discovery in MDLs, and the MDL Plaintiffs participated in the  
 6 DFS negotiations with the understanding that like the PFS, the DFS would be adopted in the  
 7 MDL once entered by Judge Kuhl in the JCCP. The parties in the JCCP submitted the stipulated  
 8 DFS and proposed order for Judge Kuhl’s consideration on May 1, 2024, which will require  
 9 Defendants to produce a verified DFS and accompanying data for all identified accounts on or  
 10 before May 31, 2024.<sup>1</sup> *See* Stipulated DFS Implementation Order (Ex. A). That data, which will  
 11 be produced for upwards of 400 plaintiffs in the JCCP, includes such critical information as the  
 12 total time each plaintiff spent on the platform per day, their number of sessions per day, and their  
 13 total number of notifications per day. In addition to aiding bellwether selection in the JCCP, it  
 14 will serve as basic case-specific discovery akin to the PFSs all Plaintiffs in both litigations must  
 15 produce. Negotiations of the DFS took longer than anticipated, and although this Court rejected  
 16 Plaintiffs’ request to use this data for bellwether selection in the MDL (*see* CMO No. 12, ECF  
 17 728), DFS data remains highly relevant to the twelve MDL personal injury bellwether cases.

18       Defendants have also been ordered to produce in the JCCP snapshots of plaintiffs’  
 19 accounts. *See* Minute Order, at 2 (Apr. 24, 2024) (Ex. B). These snapshots are in effect visual  
 20 captures of some (though not all) data contained in those accounts (the specifics vary by  
 21 Defendant). In the JCCP, Defendants will produce these snapshots for bellwether cases within  
 22 two days following their selection. *See id.* Plaintiffs in the MDL originally requested these  
 23 snapshots be produced in the MDL during the Parties’ lengthy but ultimately unsuccessful  
 24 discussions regarding a proposed preservation order that took place over the last year. Plaintiffs  
 25 renewed their request for immediate production of the snapshots for selected bellwethers on May  
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27       <sup>1</sup> There is variation in the extent of DFS data Defendants must provide according to the timing of  
 28 when a Plaintiff provides the Plaintiff Preservation Form or User Account Confirmation and  
 Consent Form, as reflected in the attached Exhibit A, but DFSs must be provided for all Plaintiffs  
 who provided Preservation or Confirmation Forms by May 31, 2024.

1 2, 2024.

2 The Parties met and conferred regarding Plaintiffs' request for production of DFS data and  
 3 snapshots for the selected bellwether plaintiffs on May 8, 2024, and on May 9, 2024, Defendants  
 4 confirmed they oppose the requested relief. Some Defendants argue that Plaintiffs should be  
 5 required to propound requests for production of documents for the entire universe of bellwether  
 6 Plaintiff-specific information they may ultimately seek, and then finalize meet and confer on same, as  
 7 a prerequisite to obtaining the same basic and highly relevant DFS and snapshot information that the  
 8 Parties stipulated to, and expect Judge Kuhl to simply order be provided in the JCCP.<sup>2</sup> But this would  
 9 only serve to cause unnecessary delays. Plaintiffs' request is simple: Defendants should produce  
 10 DFS data and the snapshots for identified accounts for the twelve bellwether Plaintiffs without  
 11 delay. There is no dispute that this information is highly relevant, and it is immaterial that Judge  
 12 Kuhl is also using this data to aid in JCCP bellwether selection. There is no burden on  
 13 Defendants, who are already producing this data for a far greater number of JCCP plaintiffs,  
 14 without any need for prior requests for production of documents and meet and confers on same.  
 15 The fact is the Defendants are required to produce this data in the JCCP expeditiously, and they  
 16 should be required to do so for the twelve bellwether Plaintiffs here.

17 **CONCLUSION**

18 Defendants' refusal to expeditiously produce snapshots and DFS data for the selected  
 19 Personal Injury Bellwether Plaintiffs is nothing more than an attempt to delay crucial bellwether  
 20 discovery and the case schedule. The information is highly relevant and proportional to the needs  
 21 of the case and should be produced within 14 days.

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 27 <sup>2</sup> Given Defendants' refusal to enter into a stipulation like that in the JCCP, in order to preserve  
 28 their rights some bellwether Plaintiffs propounded requests for production of documents for DFS  
 data and snapshots starting on May 10, 2024.

1  
2 DATED: May 14, 2024

Respectfully submitted,  
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## ATTESTATION

I, Lexi J. Hazam, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

**DATED:** May 14, 2024

/s/ Lexi J. Hazam

Lexi J. Hazam